

SUBJECT: Establishing provisions for administrative oversight of county elections

COMMITTEE: Elections — committee substitute recommended

VOTE: 5 ayes — Smith, Burrows, Capriglione, DeAyala, Swanson

4 nays — Bucy, Manuel, E. Morales, Vo

SENATE VOTE: On final passage (April 13) — 18 - 12

WITNESSES: None (*considered in a formal meeting on May 5*)

BACKGROUND: Some have suggested that provisions are needed to provide administrative oversight of county elections and ensure elections are managed efficiently by local county officials.

DIGEST: CSSB 1933 would establish provisions related to the administrative oversight of county elections and county election officials.

Administrative oversight of county elections. The bill would allow the secretary of state's office to order administrative oversight of a county office administering elections or voter registration in the county if:

- an administrative election complaint was filed with the secretary of state;
- the secretary of state had provided notice to the county election official with authority over election administration or voter registration; and
- the secretary of state, after conducting an investigation, had good cause to believe that a recurring pattern of problems with election administration or voter registration existed in the county, including voting system equipment malfunctions or election official misconduct.

The secretary of state would be required to decide whether to implement administrative oversight by the 30th day after the earliest of the following:

- the day a response by the county election official with authority over election administration or voter registration was received by the secretary of state;
- 30 days after a county official received notice of the complaint, which would be the deadline for the official to respond to the secretary about the complaint; or
- the day the report on the findings of an investigation was provided to such an official.

Notice of complaint. By the 30th day after receiving an administrative election complaint, the secretary of state would be required to provide notice of the complaint to the applicable county election official, including the specific allegations against the official in the complaint.

By the 30th day after receiving notice of such a complaint, the county election official could respond with any supporting documentation relating to the complaint or the allegations in the complaint to the secretary of state.

The county election official would be required to respond no later than 72 hours after receiving notice of the complaint if the administrative election complaint concerned an election for which voting by personal appearance had begun and the final canvass had not been completed.

Investigation of a complaint. The bill would allow the secretary of state to direct personnel in the secretary of state's office to investigate an administrative election complaint and would be required to consider any response or supporting documentation provided by the county election official, if applicable. If the secretary of state decided to conduct such an investigation, the secretary would be required to notify the county election official. After completing an investigation, the secretary of state would be required to provide a report on the investigation's findings to the official and the individual who filed the administrative election complaint.

County election office oversight by the secretary. If the secretary of

state implemented administrative oversight, the secretary would be required to provide written notice to the county election official and the county judge. The authority of administrative oversight over a county granted to the secretary of state would be required to include:

- requiring the approval and review by the secretary of any policies or procedures regarding the administration of elections issued by the county; and
- authorizing all appropriate personnel in the secretary of state's office to conduct in-person observations of the county election office's activities.

The bill would require the county election office being overseen by the secretary of state to provide sufficient access to the appropriate personnel in the secretary of state's office to perform their required duties. The secretary would have to submit a quarterly report regarding the activities of the oversight personnel to the members of the county election commission and the county attorney during the period when the secretary was overseeing elections in a county. The secretary would deliver the required report to the county commissioners court in person if requested by the court.

The secretary of state would continue to conduct the administrative oversight of a county until the earlier of December 31 of the even-numbered year following the first anniversary of the complaint or the date on which the issue was rectified, as determined by the secretary.

Removal or termination of county election officials. At the conclusion of administrative oversight, if the recurring pattern of problems with election administration or voter registration was not rectified or continued to impede the free exercise of a citizen's voting rights in the county, the secretary of state could file a petition for the removal of the applicable county officer or of the county elections administrator, in a county that had that position.

Randomized county audits. Immediately after the uniform election date

in November of an even-numbered year, the secretary of state would be required to conduct an audit of the elections held in four counties during the previous two years. If the secretary of state completed the audit of such a county before the end of the two-year period, the secretary could randomly select another county with a population of less than 300,000 to be audited.

If, by July 31 of the first odd-numbered year following the commencement of an audit, the audit findings demonstrated to the secretary of state that a recurring pattern of problems with election administration or voter registration existed in an audited county and the problems impeded the free exercise of a citizen's voting rights, the secretary of state would be required to publicly release the audit's preliminary findings and recommend the county for administrative oversight. The secretary of state also could conduct an audit of other elections held in the county in the previous two years.

The bill would take effect September 1, 2023.

NOTES:

According to the Legislative Budget Board, the fiscal impact of the bill cannot be determined because the number of county offices administering elections or voter registrations that would be placed under administrative oversight cannot be estimated.